

UNITED STATES BANKRUPTCY COURT
DISTRICT OF PUERTO RICO

IN RE:

JOSE ANTONIO CORREA ORTIZ
WANDA IVETTE SERRANO RAMOS

CASE NO. 11-00543-BKT
CHAPTER 13

DEBTOR

TRUSTEE'S POSITION REGARDING
APPLICATION FOR COMPENSATION DOCKET 32

TO THE HONORABLE COURT:

Comes now Alejandro Oliveras, Chapter 13 Trustee, represented by the undersigned counsel and very respectfully states and prays:

1. Counsel for debtor filed an application for compensation on April 8, 2011 in the amount of \$5,697.80, see docket no. 32.

2. The request for compensation does not comply with the "lodestar" method adopted in this judicial district. Boston & Maine Corp. v. Sheehan, Phinney, Bass & Breen, 778 F. 2d 890 (1st Cir. 1985); Boston & Maine Corp. v. Moore, 776 F. 2d 2 (1st Cir. 1985); In re U.S.A. v ONE STAR CLASS SLOOP SAILBOAT BUILT IN 1930 WITH HULL NUMBER 721, NAMED "FLASH II", 08-01152, October 20, 2008 (1st Cir.), 20085 WL 4615800.

3. Reviewing the application for compensation, one could determine that counsel for debtor did not use the loadstar method. When multiplying attorneys hourly rate of \$200.00 with the time spent it is determined that counsel's method was to

fraction the time based on 60 minutes. To give an example, at page 2 of counsels application, he states that on 9/01/10 he performed the following:

"Organize, verify documents tendered by debtor, letter to debtors:, re: pending documents; tax returns , CRIM certification, detailed list of equipment and inventory, income and expenses for prior 6 months with evidence, mortgage letter indication arrears and balance".

For this, he is billing \$100.00 for (.30 hrs) worked at a \$200.00 rate. His calculations were based on giving .30hr an equivalent of half an hour. However, under the "loadstar method" his calculation would have been as follows $\$200.00 \times .30$ which equals to \$60.00 and not the \$100.00 dollars that counsel billed. In the "loadstar method", .30 is equal to 18 minutes and not 30 minutes as counsel submitted.

4. The Trustee states that various entries on counsel's application are erroneous and as it is, the same cannot be granted.

5. Counsel should amend the application in order for it to comply with loadstar.

6. Also, the application also has entries performed by an attorney, charged at \$200.00 per hour, which are more suited to be performed by clerical personnel, i.e:

09/01/10

Organize, verify documents tendered by debtor, letter to debtors:, re: pending documents ; tax returns, CRIM certification, detailed list of equipment & inventory, income & expenses for prior 6 months with evidence, mortgage letter indicating arrears & balance.

$\$200.00 \times .30\text{hr} = \100.00

09/13/11

W.D.D.

letter to debtors:, re: pending documents ; tax returns, income & expenses for prior 6 months with evidence & pending business documents.

$\$200.00 \times .10\text{hr} = \33.30

11/4/11 letter to debtors:, re: pending documents ; tax returns, income & re-do business income & expense report as required with attached evidence.

$\$200.00 \times .10\text{hr} = \33.30

01/28/11 & 01/31/11

E.D.D.

Receive & notify debtors of 341 meeting, C/H; and notify debtors of possible dismissal due to incomplete petition & schedules filed pending documents.

$\$200.00 \times .10\text{hr} = \33.30

2/18/11

E.D.D

Verify and upload auto insurance premium, professional license, commercial public responsibility & service contracts.

$\$200.00 \times .30\text{hr} = \100.00

3/02/11

ED.D.

Receive & notify debtors unfavorable recommendation, pending documents, amendments requested, etc.

$\$200.00 \times .20\text{hr} = \66.00

3/08/11

E.D.D.

Upload to Trustee comparables of real property & Judgment
Euro-kool; and review & notify unfavorable recommendation
on C/H.

$\$200.00 \times .30\text{hr} = \100.00

03/29/11

W.D.D.

Upload to Trustee copy of plan & mortgage payment & 2009
CRIM tax return.

$\$200.00 \times .10\text{hr} = \33.30

4/01/11 Receive & notify debtors, re: C/H continued to
5/26/11 at 2:30 p.m.

$\$200.00 \times .10\text{hr} = \33.30

04/08/11

E.D.D.

Receive & notify debtors, re: unfavorable
recommendation on C/H.

$\$200.00 \times .10\text{hr} = \33.30

Counsel should clarify who performed these services and
charge accordingly.

WHEREFORE, it is very respectfully requested from this
Honorable Court to note the contents hereof and deny the
application.

NOTICE

YOU ARE HEREBY NOTIFIED THAT YOU HAVE FOURTEEN (14) DAYS FROM THE DATE OF THIS NOTICE TO FILE AN OPPOSITION TO THE FOREGOING MOTION AND TO REQUEST A HEARING. IF NO OPPOSITION IS FILED WITHIN THE PRESCRIBED PERIOD OF TIME, THE TRUSTEE'S MOTION WILL BE DEEMED UNOPPOSED AND MAY BE GRANTED WITHOUT FURTHER HEARING UNLESS (1) THE REQUESTED RELIEF IS FORBIDDEN BY LAW; (2) THE REQUESTED RELIEF IS AGAINST PUBLIC POLICY; OR (3) IN THE OPINION OF THE COURT, THE INTEREST OF JUSTICE REQUIRES OTHERWISE. IF A TIMELY OPPOSITION IS FILED, THE COURT WILL SCHEDULE A HEARING AS A CONTESTED MATTER.

CERTIFICATE OF SERVICE: I hereby certify that on this same date I electronically filed the above document with the Clerk of the Court using the CM/ECF System which sent a notification of such filing to the following: treasure@prtc.net. I further certify that I have mailed this document by First Class Mail postage prepaid to debtor-address of record.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 2nd day of May, 2011.

ALEJANDRO OLIVERAS RIVERA
CHAPTER 13 TRUSTEE
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By: /s/ PEDRO R. MEDINA HERNANDEZ

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